

AMENDED IN SENATE APRIL 20, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 250

Introduced by Senator Campbell

February 15, 2005

An act to amend the heading of Chapter 14 (commencing with Section 13400) of Division 5 of, to amend Section 13401 of, and to add Article 5.5 (commencing with Section 13446) to Chapter 14 of Division 5 of, the Business and Professions Code, and ~~to amend Sections 13143.9 and 18945 of, and to add Article 1.6 (commencing with Section 13139) to Chapter 1 of Part 2 of Division 12 of, the Health and Safety Code, relating to hydrogen vehicles and the State Fire Marshal; to amend Section 13143.9 of the Health and Safety Code, relating to hydrogen fuels.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 250, as amended, Campbell. Hydrogen fuel.

Existing law requires the Department of Food and Agriculture to adopt specifications for gasoline or automotive spark-ignition fuels *for use in internal combustion engines and motor vehicles* and to use by reference the latest standards of the American Society for Testing and Materials (ASTM). Existing law also makes it unlawful for any person to sell, offer for sale, or cause or permit to be sold or offered for sale, or deliver or offer for delivery, any petroleum product as a fuel for internal combustion engines at any place where petroleum products are kept or stored for sale, which does not conform to these provisions, unless specified requirements are met.

This bill would add hydrogen fuels to these provisions for use in internal combustion engines and fuel cells in motor vehicles ~~and would designate the State Fire Marshal as the lead agency for~~

~~implementing issues pertaining to fire, life, and safety for a hydrogen fueling network, as specified, require the department to initially establish specifications for hydrogen fuels and fuel cells for these purposes, and require that the department then adopt the latest standards established by ATSM International for these fuels. The bill would require the State Fire Marshal to establish building standards for hydrogen fueling stations and a statewide program of fire prevention training regarding fire, life, and safety regulations and industry safety standards and practices for these stations.~~

~~The bill would also establish an appeal process for hydrogen fueling standards adversely affected by any regulation, rule, ordinance, interpretation, decision, or practice of a local authority regarding the standards and requirements for these stations and would authorize the State Fire Marshal to establish a fee schedule to recover the cost of fire prevention training. By increasing the duties of local public safety officials, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Because a violation of these provisions is a misdemeanor, the bill by expanding the definition of a crime would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The heading of Chapter 14 (commencing with Section 13400) of Division 5 of the Business and Professions Code is amended to read:

CHAPTER 14. PETROLEUM AND HYDROGEN FUELS

SEC. 2. Section 13401 of the Business and Professions Code is amended to read:

13401. (a) "Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale.

(b) "Manufacturer" means manufacturer, refiner, producer, or importer.

(c) "Petroleum products" means gasoline, diesel fuel, liquefied petroleum gas only when used as a motor fuel, kerosene, thinner, solvent, liquefied natural gas, pressure appliance fuel, or white gasoline, or any motor fuel, or any oil represented as engine lubricant, engine oil, lubricating or motor oil, or any oil used to lubricate transmissions, gears, or axles.

(d) "Barrel," when applied to petroleum products, consists of 42 gallons.

(e) "Oil" means motor oil, engine lubricant, engine oil, lubricating oil, or oils used to lubricate transmissions, gears, or axles.

(f) "Motor oil" means engine oil, engine lubricant, or lubricating oil.

(g) "Gasoline" means a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines.

(h) "Engine fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine or fuel cell. "Motor fuel" means "engine fuel" when that term is used in this chapter.

(i) "Motor vehicle fuel" means any product intended for consumption in an internal combustion engine or fuel cell to

1 produce the power to self-propel a vehicle designed for
2 transporting persons or property on a public street or highway.

3 (j) “Diesel fuel” means any petroleum product offered for sale
4 which meets the standards prescribed for diesel fuel by this
5 chapter.

6 (k) “Kerosene” means any petroleum product offered for sale
7 which meets the standards prescribed for kerosene by this
8 chapter.

9 (l) “Fuel oil” means any petroleum product offered for sale
10 which meets the standards prescribed for fuel oil by this chapter.

11 (m) “Automotive spark-ignition engine fuel” means any
12 product used for the generation of power in a spark-ignition
13 internal combustion engine.

14 (n) “Compression-ignition engine fuel” means any product
15 used for the generation of power in a compression-ignition
16 internal combustion engine.

17 (o) “Gasoline-oxygenate blend” means a fuel consisting
18 primarily of gasoline along with a substantial amount of one or
19 more oxygenates. For purposes of this section, “substantial
20 amount” means more than 0.35 mass percent oxygen or, if
21 methanol is the only oxygenate, more than 0.15 mass percent
22 oxygen.

23 (p) “Oxygenate” means an oxygen-containing, ashless, organic
24 compound such as an alcohol or ether, which can be used as a
25 fuel or fuel supplement.

26 (q) “Developmental engine fuel” means any experimental
27 automotive spark-ignition engine fuel or compression-ignition
28 fuel which does not meet current standards established by this
29 chapter but has characteristics which may lead to an improved
30 fuel standard or the development of an alternative fuel standard.

31 (r) “Hydrogen” means a fuel composed of the chemical
32 hydrogen intended for consumption in an internal combustion
33 engine or fuel cell.

34 SEC. 3. Article 5.5 (commencing with Section 13446) is
35 added to Chapter 14 of Division 5 of the Business and
36 Professions Code, to read:

Article 5.5. Standards for Hydrogen

13446. The department shall establish specifications for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles until the time that the ASTM International formally adopts standards for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles. The department shall then adopt by reference the latest standards established by ASTM International for hydrogen fuel for use in internal combustion engines and fuel cells in motor vehicles.

~~SEC. 4. Article 1.6 (commencing with Section 13139) is added to Chapter 1 of Part 2 of Division 12 of the Health and Safety Code, to read:~~

~~Article 1.6. Hydrogen Fueling Network~~

~~13139. The office of the State Fire Marshal is hereby designated as the lead agency for implementation issues pertaining to fire, life, and safety for the hydrogen fueling network. The State Fire Marshal shall be responsible for the submittal of codes and standards for hydrogen fueling stations and shall coordinate and assist state and local agencies in resolving any regulatory conflicts relating to hydrogen fueling stations.~~

~~13139.1. (a) "Hydrogen fueling station" means any facility that receives or produces hydrogen fuel for onsite distribution to vehicles. This includes, but is not limited to, reception of produced hydrogen, fuel storage, fuel compression, dispensing fuel to vehicles, onsite production of hydrogen, and onsite consumption of excess hydrogen for electric power generation.~~

~~(b) "Hydrogen fueling network" means the existing and developing system of hydrogen production, storage, and dispensing facilities located along California's interstates, highways, and roads to provide fuels for hydrogen powered vehicles and hydrogen energy stations.~~

~~13139.2. (a) The State Fire Marshal shall submit building standards for hydrogen fueling stations to the California Building Standards Commission for approval in compliance with the procedures specified in Chapter 3 (commencing with Section 18930) of Part 2.5 of Division 13.~~

~~(b) Regulations for hydrogen fueling stations other than building standards shall be adopted by the State Fire Marshal in compliance with the procedures specified in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(c) Regulations adopted by the State Fire Marshal for hydrogen fueling stations shall be enforced by the local fire authorities in compliance with Sections 13145, 13146.2, and 13146.5.~~

~~13139.3. The State Fire Marshal shall establish a statewide program of fire prevention training regarding fire and life safety regulations and industry safety standards and practices for hydrogen fueling stations. Training shall be for fire prevention inspectors and other employees designated by local fire protection agencies. The State Fire Marshal may establish a fee schedule to recover the cost of this training.~~

~~13139.4. (a) An appeal to the State Fire Marshal may be filed by any person adversely affected by any regulation, rule, ordinance, interpretation, decision, or practice of a local authority regarding building standards or other requirements for hydrogen fueling stations or by the local authority itself. It is the intent of this section to circumvent the local appeals process, and an appeal to the State Fire Marshal may be filed only after the appellant has exhausted all available administrative appeals of the local authority. The local authority shall provide in writing to the State Fire Marshal the administrative record on the matter being appealed.~~

~~(b) The State Fire Marshal may consult with the affected parties before commencing the formal appeals process. At the close of the appeal proceedings the State Fire Marshal's findings and decision shall be provided in writing. The findings and decision shall be made available to the public on request and shall be posted on the Internet site of the office of the State Fire Marshal.~~

~~(c) Decisions made by the State Fire Marshal pursuant to this section shall be binding on the parties to the appeal. If no party to the appeal seeks review by administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after the decision is mailed to the parties, the decision shall be~~

1 deemed a final order and not subject to review by any other court
2 or agency.

3 ~~(d) The State Fire Marshal shall promulgate regulations to~~
4 ~~specify the procedures for appeals filed pursuant to this section.~~

5 ~~SEC. 5. Section 13143.9 of the Health and Safety Code is~~
6 ~~amended to read:~~

7 ~~13143.9. (a) The State Fire Marshal shall, in carrying out~~
8 ~~Section 13143, prepare, adopt, and submit building standards and~~
9 ~~other fire and life safety regulations for approval pursuant to~~
10 ~~Chapter 4 (commencing with Section 18935) of Part 2.5 of~~
11 ~~Division 13 establishing minimum requirements for the storage,~~
12 ~~handling, and use of hazardous materials, as defined, in the~~
13 ~~California Fire Code, and any subsequent editions of the model~~
14 ~~code as selected by the office. The State Fire Marshal shall seek~~
15 ~~the advice of the Office of Emergency Services in establishing~~
16 ~~these requirements. This section does not prohibit a city, county,~~
17 ~~or district from adopting an ordinance, resolution, or regulation~~
18 ~~imposing stricter or more stringent requirements than a standard~~
19 ~~adopted pursuant to this section.~~

20 ~~(b) A business that files the annual inventory form in~~
21 ~~compliance with Chapter 6.95 (commencing with Section 25500)~~
22 ~~of Division 20, including the addendum adopted pursuant to~~
23 ~~Section 25503.9, shall be deemed to have met the requirements~~
24 ~~of subdivision (e) of Section 80.103 of the California Fire Code,~~
25 ~~as adopted by the office pursuant to this section.~~

26 ~~(c) A business that is not required to file a hazardous materials~~
27 ~~inventory form pursuant to Section 25509 but which is required~~
28 ~~by the local fire chief to comply with subdivision (e) of Section~~
29 ~~80.103 of the California Fire Code, as adopted by the office~~
30 ~~pursuant to this section, shall, notwithstanding Chapter 6.95~~
31 ~~(commencing with Section 25500) of Division 20, file the~~
32 ~~inventory form adopted pursuant to Section 25503.3 and the~~
33 ~~addendum adopted pursuant to Section 25503.9 with the local~~
34 ~~fire chief for purposes of complying with this requirement, if~~
35 ~~determined to be necessary by the fire chief.~~

36 ~~SEC. 6. Section 18945 of the Health and Safety Code is~~
37 ~~amended to read:~~

38 ~~18945. (a) Any person adversely affected by any regulation,~~
39 ~~rules, omission, interpretation, decision, or practice of any state~~
40 ~~agency respecting the administration of any building standard~~

1 ~~may appeal the issue for resolution to the commission. This~~
2 ~~subdivision does not apply to building standards for hydrogen~~
3 ~~fueling stations.~~

4 ~~(b) If any local agency having authority to enforce a state~~
5 ~~building standard and any person adversely affected by any~~
6 ~~regulation, rule, omission, interpretation, decision, or practice of~~
7 ~~such agency respecting such building standard both wish to~~
8 ~~appeal the issue for resolution to the commission, then both~~
9 ~~parties may appeal to the commission. The commission may~~
10 ~~accept the appeal only if the commission determines that the~~
11 ~~issues involved in such appeal have statewide significance. This~~
12 ~~subdivision does not apply to building standards for hydrogen~~
13 ~~fueling stations.~~

14 ~~(c) Appeals regarding building standards for hydrogen fueling~~
15 ~~stations shall be handled as provided in Section 13139.4.~~

16 ~~SEC. 7. If the Commission on State Mandates determines that~~
17 ~~this act contains costs mandated by the state, reimbursement to~~
18 ~~local agencies and school districts for those costs shall be made~~
19 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
20 ~~4 of Title 2 of the Government Code.~~

21 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
22 ~~Section 6 of Article XIII B of the California Constitution because~~
23 ~~the only costs that may be incurred by a local agency or school~~
24 ~~district will be incurred because this act creates a new crime or~~
25 ~~infraction, eliminates a crime or infraction, or changes the~~
26 ~~penalty for a crime or infraction, within the meaning of Section~~
27 ~~17556 of the Government Code, or changes the definition of a~~
28 ~~crime within the meaning of Section 6 of Article XIII B of the~~
29 ~~California Constitution.~~